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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/504,892	02/16/2000	Carl A. Bender	3716-10	5545

7590 12/10/2003

Nixon & Vanderhye PC
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/504,892

Applicant(s)
Bender et al.

Examiner
John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 16, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152) _____
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 & 5 6) ☐ Other: _____

[Handwritten signature]
12-2-03

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FIRST ACTION REJECTION

DRAWINGS

1. This application has been filed with drawings that are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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2. Claims 1-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Horstmann 6,285,985 (09/04/2001) [US f/d: 04/03/1998] (herein referred to as “Horstmann”).

As per claim 1, Horstmann (col. 3, ll. 61-67; and col. 4, ll. 1-25) discloses “*the ad module sends ‘user profile’ information to the ad server such that ads targeted to the user based on the user profile may be downloaded and displayed. . . . Such information may include the category of the software program and the user’s usage of the software program. . . .*”

Horstmann (col. 3, ll. 5-17) shows fee payment elements based “*on a ‘per-hit’ basis. . . . [as well as] ‘based on ‘referrals.’*”

Horstmann (col. 3, ll. 17-27) shows “*click . . . information is used to compute billing to advertisers. . . .*”

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claim 1.

Horstmann lacks an explicit recitation of “requesting compensation from the plural network nodes for each said visitation by the consumer. . . .” even though

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) suggests same.

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It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with “requesting compensation from the plural network nodes for each said visitation by the consumer. . . .” because such features would have provided means *“allowing a software developer to present advertisements through a software program. . . . retrieve advertisements form an advertisement server and to display them to the user.”* (See Horstmann (col. 2, ll. 1-15).

As per claims 2-10, Horstmann shows the mehtod of claim 1 and subsequent base claims depending from claim 1.

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claims 2-10; however,

Horstmann lacks explicit recitation of the elements and limitations of claims 2-10.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with the elements and limitations of claims 2-10 because such features

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would have provided means “*allowing a software developer to present advertisements through a software program. . . . retrieve advertisements from an advertisement server and to display them to the user.*” (See Horstmann (col. 2, ll. 1-15).

As per claim 11, Horstmann (col. 3, ll. 61-67; and col. 4, ll. 1-25 discloses “*the ad module sends ‘user profile’ information to the ad server such that ads targeted to the user based on the user profile may be downloaded and displayed. . . . Such information may include the category of the software program and the user’s usage of the software program. . . .*”

Horstmann (col. 3, ll. 5-17) shows fee payment elements based “*on a ‘per-hit’ basis. . . . [as well as] ‘based on ‘referrals.’*”

Horstmann (col. 3, ll. 17-27) shows “*click information is used to compute billing to advertisers. . . .*”

Horstmann (the ABSTRACT) shows “*Click-through rewards. . . .*”

Horstmann (col. 4, ll. 47-61) discloses “[*sending*] email. . . .” The Examiner interprets this disclosure as showing “a message receiver coupled to the network, said message receiver receiving messages over the network from any of the plural nodes indicating that the consumer has visited the node and located a distinctive foreign object hidden therein. . . .”

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Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claim 11.

Horstmann lacks an explicit recitation of “a message receiver coupled to the network, said message receiver receiving messages over the network from any of the plural nodes indicating that the consumer has visited the node and located a distinctive foreign object hidden therein. . . .” even though Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with “a message receiver coupled to the network, said message receiver receiving messages over the network from any of the plural nodes indicating that the consumer has visited the node and located a distinctive foreign object hidden therein. . . .” because such features would have provided means “*allowing a software developer to present advertisements through a software program. . . . retrieve advertisements from an advertisement server and to display them to the user.*” (See Horstmann (col. 2, ll. 1-15).

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As per claims 12-19, Horstmann shows the system of claim 11 and subsequent base claims depending from claim 11.

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claims 12-19; however,

Horstmann lacks explicit recitation of the elements and limitations of claims 12-19.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with the elements and limitations of claims 12-19 because such features would have provided means *“allowing a software developer to present advertisements through a software program. . . . retrieve advertisements from an advertisement server and to display them to the user.”* (See Horstmann (col. 2, ll. 1-15).

As per claim 20, Horstmann (col. 3, ll. 61-67; and col. 4, ll. 1-25 discloses *“the ad module sends ‘user profile’ information to the ad server such that ads targeted to the user based on the user profile may be downloaded and displayed. . . . Such information may include the category of the software program and the user’s usage of the software program. . . .”*

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Horstmann (col. 3, ll. 5-17) shows fee payment elements based “*on a ‘per-hit’ basis. . . . [as well as] ‘based on ‘referrals.’*”

Horstmann (col. 3, ll. 17-27) shows “*click information is used to compute billing to advertisers. . . .*”

Horstmann (the ABSTRACT) shows “*Click-through rewards. . . .*”

Horstmann (col. 4, ll. 47-61) discloses “[*sending*] *email. . . .*” The Examiner interprets this disclosure as showing “transmitting at least some of the stored information from the first node to the second node. . . .”

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claim 20.

Horstmann lacks an explicit recitation of “transmitting at least some of the stored information from the first node to the second node. . . .” even though Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with “transmitting at least some of the stored information from the first node to

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the second node. . . .” because such features would have provided means “*allowing a software developer to present advertisements through a software program. . . . retrieve advertisements form an advertisement server and to display them to the user.*” (See Horstmann (col. 2, ll. 1-15).

As per claims 21-23, Horstmann shows the method of claim 20 and subsequent base claims depending from claim 20.

Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) shows the elements and limitations of claims 21-23; however,

Horstmann lacks explicit recitation of the elements and limitations of claims 21-23.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Horstmann (the ABSTRACT; FIG. 1; FIG. 4; FIG. 2; FIG. 3; col. 1, ll. 5-10; col. 1, ll. 25-31; col. 2, ll. 1-37; col. 2, ll. 57-67; col. 3, ll. 1-61; col. 4, ll. 1-67; col. 5, ll. 1-15; and whole document) would have been selected in accordance with the elements and limitations of claims 21-23 because such features would have provided means “*allowing a software developer to present advertisements through a software program. . . . retrieve advertisements form an advertisement server and to display them to the user.*” (See Horstmann (col. 2, ll. 1-15).

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CONCLUSION

3. Any response to this action should be mailed to:

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

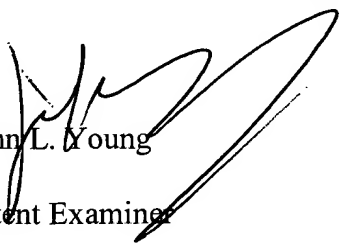
Serial Number: 09/504,892

(Bender et al.)

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



John L. Young

Patent Examiner

December 2, 2003